



House Bill No. 5505

Public Act No. 22-4

AN ACT CONCERNING CERTAIN AEROSPACE MANUFACTURING PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Aerospace manufacturing project" means a project involving the production of helicopters in this state that, if certified by the commissioner as provided in subsection (b) of this section, will require (A) primary helicopter production for current United States government programs specified in the assistance agreement, as of the date of the assistance agreement, to be carried out at one or more facilities in this state, (B) the undertaking and maintaining of primary production for helicopters to be produced during the term of the assistance agreement under one or more future United States government programs specified in the assistance agreement under production contracts entered into by the eligible taxpayer after the effective date of this section, to be carried out at one or more facilities in this state, and (C) minimum requirements for total employment in this state, average employee wages in this state, supplier spend and capital expenditures by an eligible taxpayer in furtherance of such project continuing through at least June 30, 2042;

(2) "Annual recapture amount" means the total project tax benefits

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utilized by an eligible taxpayer divided by ten;

(3) "Assistance agreement" means a contract entered into between the commissioner and an eligible taxpayer in accordance with subsection (c) of this section, including any amendments to or extensions of such contract;

(4) "Average wage requirement" means, for compliance years commencing on or after July 1, 2022, and prior to July 1, 2032, an average annual wage for full-time employees in this state that is not less than the amounts specified in the assistance agreement;

(5) "Benefit period" means the period commencing on the effective date of the assistance agreement and ending on June 30, 2032;

(6) "Capital expenditure" means bona fide costs to the wholly-owned subsidiary and its subsidiaries for: (A) Acquisition of lands, buildings, machinery, equipment or any combination thereof; (B) site and infrastructure improvements; (C) planning costs; (D) research and development expenses, as defined in section 12-217n of the general statutes, revision of 1958, revised to January 1, 2021, and including, but not limited to, development of new products and markets; and (E) development of diversification strategies, including plans for regional diversification strategies and consultants required for the completion of such strategies and plans;

(7) "Capital expenditure requirement" means, for compliance years commencing on or after July 1, 2022, and prior to July 1, 2032, a total annual amount of capital expenditures made in this state by the wholly-owned subsidiary that is not less than:

(A) Seventy million two hundred thousand dollars for the compliance year ending June 30, 2023;

(B) Seventy-one million one hundred thousand dollars for the

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compliance year ending June 30, 2024;

(C) Seventy-two million nine hundred thousand dollars for the compliance year ending June 30, 2025;

(D) Seventy-three million eight hundred thousand dollars for the compliance year ending June 30, 2026;

(E) Seventy-five million six hundred thousand dollars for the compliance year ending June 30, 2027;

(F) Seventy-seven million four hundred thousand dollars for the compliance year ending June 30, 2028;

(G) Seventy-eight million three hundred thousand dollars for the compliance year ending June 30, 2029;

(H) Eighty million one hundred thousand dollars for the compliance year ending June 30, 2030;

(I) Eighty-one million nine hundred thousand dollars for the compliance year ending June 30, 2031; and

(J) Eighty-three million seven hundred thousand dollars for the compliance year ending June 30, 2032;

(8) "Commissioner" means the Commissioner of Economic and Community Development;

(9) "Company" means an entity with a place of business or a wholly-owned subsidiary located in this state and the direct and indirect subsidiaries and affiliates of such entity;

(10) "Compliance year" means each twelve-month period commencing July first and continuing through June thirtieth of the following year, provided the initial compliance year shall commence on

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July 1, 2022, and end on June 30, 2023, and the last compliance year shall commence on July 1, 2031, and end on June 30, 2032. "Annual" refers to a compliance year;

(11) "Contract year" means each twelve-month period commencing July first and continuing through June thirtieth of the following year, provided the initial contract year shall commence on July 1, 2022, and end on June 30, 2023, and the last contract year shall commence on July 1, 2041, and end on June 30, 2042;

(12) "Corporation business tax" means the tax due under chapter 208 of the general statutes;

(13) "Eligible taxpayer" means a company that, at the time application is made under subsection (b) of this section, (A) is engaged in the aerospace industry, (B) employs not less than seven thousand individuals in this state, (C) operates the company's primary helicopter production facility for its current United States government programs in this state, (D) plans to bid on a production contract or contracts for a helicopter under one or more United States government programs, and (E) has a wholly-owned subsidiary with production facilities and its headquarters, as set forth in the assistance agreement, in this state prior to the effective date of this section;

(14) (A) "Employee requirement" means, for compliance years commencing on or after July 1, 2022, and prior to July 1, 2032:

(i) A minimum level of full-time employees in this state that is not less than an average of seven thousand three hundred seventy-five for each compliance year if the eligible taxpayer has entered into a production contract for one United States government program specified in the assistance agreement; and

(ii) A minimum level of full-time employees in this state that is not less than an average of seven thousand five hundred for each

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compliance year if the eligible taxpayer has entered into production contracts for two United States government programs specified in the assistance agreement.

(B) The average number of full-time employees for each compliance year shall be determined by adding the number of full-time employees at the end of each quarter of the respective compliance year and dividing the sum of such quarters by four;

(15) "Full-time employee" means an employee in this state of the company who works a minimum of thirty-five hours per week. "Full-time employee" does not include an employee working on a temporary or seasonal basis or any individual who does not receive a federal Form W-2 from the company;

(16) "Minimum requirements" means the minimum conditions the eligible taxpayer must satisfy during each compliance year to qualify for the sales and use tax offset for such compliance year and the refundable tax credit for such compliance year, including, but not limited to, (A) achieving the employee requirement, average wage requirement, supplier spend requirement and capital expenditure requirement, (B) the maintenance of the wholly-owned subsidiary's headquarters, as set forth in the assistance agreement, in this state, (C) the maintenance and operation of the company's primary helicopter production facility for its current United States government programs, as of the date of the assistance agreement, in this state, (D) the undertaking and maintaining in this state of the company's primary production for helicopters to be produced during the term of the assistance agreement under one or more future United States government programs specified in the assistance agreement under production contracts entered into by the eligible taxpayer after the effective date of this section, and (E) the maintenance of diversity and workforce training programs by the company in accordance with the terms of the assistance agreement;

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(17) "Production" means the various operations related to the completion of a helicopter, including, but not limited to, procurement, engineering, manufacture, assembly, integration and testing;

(18) "Production contract" means a contract with the United States government for the production of helicopters;

(19) "Project tax benefit" means the total benefit accruing to an eligible taxpayer with respect to the sales and use tax offset and the refundable tax credit;

(20) "Refundable tax credit" means the credit described in subsection (e) of this section;

(21) "Regular place of business" means any bona fide office, factory, warehouse or other space in this state at which a supply company is doing business in its own name in a regular and systematic manner and which place is continuously maintained, occupied and used by the supply company in carrying on its business through its employees regularly in attendance to carry on the supply company's business in the supply company's own name. "Regular place of business" does not include a place of business for a statutory agent for service of process, a temporary office or location used by the supply company only for the duration of the contract or an office maintained, occupied and used by a person affiliated with the supply company;

(22) "Sales and use tax" means the taxes due under chapter 219 of the general statutes;

(23) "Sales and use tax offset" means the offset described under subsection (d) of this section;

(24) "Supply company" means any commercial business with a regular place of business in this state that supplies goods and services necessary to support (A) the manufacturing of company products, or (B)

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company operations. "Supply company" does not include any local, state or federal revenue collection or taxing entity;

(25) (A) "Supplier spend requirement" means, for compliance years commencing on or after July 1, 2022, and prior to July 1, 2032, the total annual spend by the wholly-owned subsidiary and by the company, on behalf of the wholly-owned subsidiary, with supply companies in this state of not less than:

(i) Three hundred million dollars for compliance years commencing on or after July 1, 2022, and prior to July 1, 2024;

(ii) Four hundred ten million dollars for compliance years commencing on or after July 1, 2024, and prior to July 1, 2029; and

(iii) Four hundred seventy million dollars for compliance years commencing on or after July 1, 2029, and prior to July 1, 2032.

(B) If an expenditure qualifies for both the supplier spend requirement and the capital expenditures requirement, the eligible taxpayer may choose between such categories for which such expenditure may be counted. In no event shall any such expenditure be counted towards more than one such category; and

(26) "Wholly-owned subsidiary" means a subsidiary of the company, or such subsidiary's successor to its operations, that has its headquarters, as set forth in the assistance agreement, in this state. "Wholly-owned subsidiary" includes any direct or indirect subsidiary of the company's wholly-owned subsidiary and any limited liability company wholly owned directly or indirectly by the company's wholly-owned subsidiary.

(b) (1) Any eligible taxpayer that intends to undertake an aerospace manufacturing project may apply to the commissioner for certification of such project as a certified aerospace manufacturing project. In order

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to receive such certification, an eligible taxpayer shall apply to the commissioner, in a form acceptable to the commissioner and including such information as prescribed by the commissioner, including, but not limited to, (A) a detailed plan outlining the aerospace manufacturing project, (B) the term of such project, and (C) the estimated expenditures for such project. The commissioner may require such eligible taxpayer to submit such additional information as may be necessary to evaluate the application.

(2) All decisions of the commissioner with respect to any application received under subdivision (1) of this subsection shall be made in the commissioner's discretion. The provisions of this subsection shall not be construed to authorize suit against this state by any taxpayer that is denied certification by the commissioner and shall not be construed as a waiver of sovereign immunity.

(c) (1) Upon certification by the commissioner of an application as provided in subsection (b) of this section, the commissioner may enter into an assistance agreement with an eligible taxpayer pursuant to which the commissioner may, in consideration of the eligible taxpayer's agreement to meet the minimum requirements in a compliance year in connection with the certified aerospace manufacturing project and as further inducement for the eligible taxpayer to enter into an aerospace manufacturing project, agree to permit the eligible taxpayer to offset its sales and use tax liability and to claim a credit against its corporation business tax liability up to a specified amount for the corresponding compliance year.

(2) Such assistance agreement shall have a term of not less than twenty years and shall list:

(A) The specifications of the certified aerospace manufacturing project;

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(B) The length of time the certified aerospace manufacturing project will take to complete;

(C) The minimum requirements the eligible taxpayer agrees to meet during each compliance year;

(D) The commitment by the eligible taxpayer to (i) maintain the headquarters, as set forth in the assistance agreement, of the wholly-owned subsidiary or its successor in this state, (ii) operate its primary helicopter production facility for its current United States government programs, as of the date of the assistance agreement, in this state, and (iii) to undertake and maintain its primary production of helicopters to be produced during the term of the assistance agreement under one or more future United States government programs specified in the assistance agreement in this state under production contracts entered into by the eligible taxpayer after the effective date of this section;

(E) The amount of sales and use tax that the eligible taxpayer is eligible to offset for each compliance year set forth in the assistance agreement, provided the eligible taxpayer meets the minimum requirements for each such compliance year;

(F) The terms and conditions of the repayment of any sales and use tax offsets and other required financial penalties resulting from the eligible taxpayer's failure to comply with the terms of the assistance agreement;

(G) The amount of corporation business tax, subject to the limits set forth in subsection (e) of this section, against which the eligible taxpayer is eligible to claim a credit for each compliance year set forth in the assistance agreement, provided the eligible taxpayer meets the minimum requirements for each such compliance year;

(H) The manner and method for the eligible taxpayer to provide notice of any disputed claim under the assistance agreement; and

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(1) Any other terms and conditions the commissioner may require.

(3) The assistance agreement shall provide that the project tax benefit be earned and utilized during the first eight years of the term of any production contract, provided no project tax benefit may be earned or utilized beyond the benefit period.

(4) Any eligible taxpayer that enters into an assistance agreement with the commissioner under this subsection may, in the event of any disputed claim under such assistance agreement, bring an action against this state to the superior court for the judicial district of Hartford for the purpose of having such claim determined, provided notice of such disputed claim is first given to the commissioner in the manner and method described in such assistance agreement. No such action shall be allowed unless it is brought not later than two years after the date on which the eligible taxpayer gave proper notice to the commissioner in accordance with such assistance agreement. All legal defenses under such assistance agreement, except sovereign immunity, are reserved to this state.

(5) If the provisions of subsection (c) or (e) of section 32-223 of the general statutes or section 32-462 of the general statutes are in conflict with the assistance agreement, the provisions of such assistance agreement shall supersede.

(6) Upon the execution of the assistance agreement, the commissioner shall issue an allocation notice stating the maximum combined amount of the sales and use tax offset and the refundable tax credit available to the eligible taxpayer for the benefit period and the specific requirements the eligible taxpayer shall meet to qualify for such offset and credit. Such notice shall certify to the eligible taxpayer that the offsets and credits may be claimed by the eligible taxpayer if the eligible taxpayer meets the specific requirements set forth in the notice.

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(d) (1) The assistance agreement shall provide for the offset of sales and use tax amounts otherwise payable by the eligible taxpayer under the provisions of chapter 219 of the general statutes. Such offset shall be made in the form, timing and manner determined by the commissioner in consultation with the Commissioner of Revenue Services. The sales and use tax offset amounts shall be calculated after the application of all other sales and use tax exemptions set forth in chapter 219 of the general statutes in effect on the effective date of this section and any subsequent amendments to said chapter that the eligible taxpayer is eligible to claim. Nothing in this subsection shall affect the eligible taxpayer's ability to claim the sales and use tax exemptions that it otherwise qualifies for under any provision of the general statutes.

(2) Subsequent to a production contract taking effect for helicopters to be produced during the term of the assistance agreement, not later than sixty days after the end of each compliance year or, if the eligible taxpayer requests and the commissioner approves an extended date, not later than such extended date, the eligible taxpayer shall certify, subject to a third-party audit performed in accordance with the Department of Economic and Community Development audit guide or such protocols as may be set forth in the assistance agreement, the actual employment, wages, supplier spend and capital expenditure amounts to the commissioner in accordance with the requirements of the assistance agreement. If the results of such audit reveal that the eligible taxpayer has claimed a sales and use tax offset in excess of the amount allowable, the eligible taxpayer shall be subject to the repayment provisions as set forth in the assistance agreement. At the end of each compliance year, upon receipt of the eligible taxpayer's certification, the commissioner shall notify the Commissioner of Revenue Services whether the eligible taxpayer has met all minimum requirements necessary to qualify for the sales and use tax offset or is required to repay the amount of such offset in accordance with the terms of the assistance agreement.

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(e) (1) If the results of the audit performed pursuant to subdivision (2) of subsection (d) of this section reveal that the eligible taxpayer was unable to utilize all of the sales and use tax offset to which it was entitled under the assistance agreement for a compliance year against its sales and use tax liability, the assistance agreement shall permit the eligible taxpayer to claim the excess amount as a refundable tax credit, not to exceed five million dollars for each compliance year, against the corporation business tax. If the amount of the excess is greater than five million dollars for any compliance year, the excess over five million dollars shall be carried forward to future compliance years to offset the eligible taxpayer's sales and use tax liability and then as refundable tax credits of up to five million dollars for each compliance year against the eligible taxpayer's corporation business tax liability, until the excess is fully utilized, except that no carry-forward shall extend beyond the benefit period. Such carry-forward shall be utilized prior to any sales and use tax offset earned in any subsequent compliance year.

(2) If the amount of the refundable tax credit exceeds the eligible taxpayer's corporation business tax liability for the applicable income year, the Commissioner of Revenue Services shall treat such excess as an overpayment and shall refund the amount of such excess, without interest, to the eligible taxpayer. In no event shall the refundable tax credits allowed under this subsection exceed forty-five million dollars in the aggregate over the term of the assistance agreement. The eligible taxpayer shall claim the refundable tax credit allowed under this subsection on its corporate tax return for the income year that ends during the compliance year and such credit shall not be subject to the limits set forth in section 12-217zz of the general statutes. Notwithstanding the provisions of section 12-217aa of the general statutes, such credit shall be claimed after all other tax credits have been claimed.

(3) Not later than thirty days after the commissioner receives an audit

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performed pursuant to subdivision (2) of subsection (d) of this section or as provided for in the assistance agreement, during each year of the benefit period, the Department of Economic and Community Development shall issue the eligible taxpayer a credit voucher that sets forth the amount of the refundable tax credit permitted pursuant to this subsection and the income year for which such credit may be claimed. The commissioner shall annually provide to the Commissioner of Revenue Services a report detailing all credit vouchers that have been issued under this subsection.

(f) (1) The eligible taxpayer shall pay the total amount of project tax benefit that was utilized by the eligible taxpayer for a particular compliance year and any penalty set forth in the assistance agreement if the commissioner determines that the eligible taxpayer failed to satisfy any of the minimum requirements for such compliance year.

(2) The project tax benefit utilized by the eligible taxpayer under subsections (d) and (e) of this section shall be subject to recapture during the contract years commencing on or after July 1, 2032, and ending on June 30, 2042, if the eligible taxpayer fails to satisfy during such time period certain annual thresholds relating to employee head count, average wages, supplier spend and capital expenditures, as detailed in the assistance agreement, and such other requirements including (A) the maintenance of the wholly-owned subsidiary's headquarters, as set forth in the assistance agreement, in this state, (B) the maintenance and operation of the company's primary helicopter production facility for its current United States government programs, as of the date of the assistance agreement, in this state, (C) the undertaking and maintaining in this state of the company's primary production for helicopters to be produced during the term of the assistance agreement under one or more of its future United States government programs specified in the assistance agreement under production contracts entered into by the eligible taxpayer after the effective date of this section, and (D) the

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maintenance of diversity and workforce training programs by the company in accordance with the terms of the assistance agreement.

(3) If the eligible taxpayer enters into a production contract with the United States government for one helicopter program specified in the assistance agreement, the targeted job requirement shall be seven thousand two hundred fifty, and the minimum job requirement shall be six thousand for each of the years subject to the recapture under subdivision (2) of this subsection. If the eligible taxpayer enters into production contracts with the United States government for two helicopter programs specified in the assistance agreement, the targeted job requirement shall be seven thousand seven hundred fifty, and the minimum job requirement shall be seven thousand for each of the years subject to the recapture under subdivision (2) of this subsection. The annual recapture amount shall be (A) repaid if the number of actual jobs in any year subject to the recapture is less than the minimum job requirement, and (B) prorated at ninety per cent value of the annual recapture amount if the number of actual jobs is equal to or greater than the minimum job requirement but less than the targeted job requirement. In addition to the recapture job obligation, the commissioner may require other criteria, including, but not limited to, wage requirements, with respect to the recapture of the remaining ten per cent of the annual recapture amount. In no event shall the amount of the recapture exceed the annual recapture amount.

(g) The aggregate amount of the project tax benefit granted by the commissioner under this section shall not exceed (1) six million two hundred fifty thousand dollars for each compliance year or fifty million dollars during the term of the assistance agreement if the eligible taxpayer has entered into a production contract after the effective date of this section with the United States government for one helicopter program specified in the assistance agreement, and (2) nine million three hundred seventy-five thousand dollars for each compliance year

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or seventy-five million dollars during the term of the assistance agreement if the eligible taxpayer has entered into production contracts after the effective date of this section with the United States government for two helicopter programs specified in the assistance agreement.

(h) The commissioner shall not enter into any assistance agreement under subsection (c) of this section after January 31, 2023.

(i) The commissioner may make revisions to the terms of the assistance agreement to address a scenario where a delay, not caused by the eligible taxpayer, prevents the eligible taxpayer from entering into one or more production contracts by June 30, 2024. Such revisions may include changes to the timing of (1) the benefit period, (2) the compliance years, (3) the contract years, (4) the minimum requirements, and (5) the recapture period, and other conforming changes, provided in all cases, the project tax benefit shall be earned and utilized during the first eight years of the term of any such production contract.

(j) The commissioner may from time to time amend, supplement or modify the terms of the assistance agreement consistent with the provisions of this section.

Approved April 28, 2022